

Mansurpur Sugar Mills Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-25-2005

Judge : S Kang, Vice

Appellant : Mansurpur Sugar Mills Ltd.

Respondent : Cce

Judgement :

2. The appellant filed this appeal against order-in-appeal passed by the commissioner (Appeals) whereby the benefit of Modvat credit in respect of the plates, plain plates, M.S. flat, proof machined forging and welding electrodes is denied for the period April 2000 to June 2000.

3. During the period in dispute as per the definition of capital goods, the specified goods are liable for benefit of Modvat credit. The plates, plain plates, M.S. Flat of iron and steel are being used in the factory as runners for transport raw material (cane) in the mill house.

The contention of the appellant is that these are used to support the runners for transport of the raw material. The appellant relied upon the decision of the Tribunal in the case of Mukand Ltd. v. CCE whereby the benefit of Modvat credit in respect of the structures which are supportive of conveyor system was allowed.

4. The contention of the Revenue is that these are general-purpose goods and classifiable under Heading 73 of central Excise Tariff which is not covered under

the definition of capital goods.

5. I find that the appellant claiming benefit of Modvat credit as capital goods in respect of plates, plain plates, M.S. plates, which are used as runners for, transport raw material. The contention is that these are used as a supportive structure for the runners. The appellant relied upon the decision of the Tribunal in the case of Mukand Ltd. (supra). In this case the Tribunal after noticing the fact that the items in question has been manufactured as per design and specification, to be installed along with the conveyor system, so that the conveyor system can function with greater strength. In the present case plates, plain plates, M.S. flat are not specifically designed. In these circumstances, I find no merit in the contention of the appellant in respect of the plates, plain plates and M.S. Flat.

6. In respect of the welding electrodes the contention of the appellant is that these are used for welding the electrodes. The welding electrodes are classifiable under Heading 83 of Central Excise Tariff, which is not covered under the definition of capital goods, and there is also no evidence that welding electrodes are part, accessory of any capital goods. In these circumstances, the benefit of Modvat credit in respect of the welding electrodes was also rightly denied.

7. In respect of the proof machined forging, the contention of the appellants is that these are used at mill house to give motion to the heavy rollers, where juice is being extract for producing final product. As per the definition of capital goods, parts, accessories, of the machines are entitled for the benefit of Modvat credit further the board vide Circular dated 2.12.96 clarified that in respect of the part and accessories irrespective of their classification the benefit of capital goods cannot be denied. Therefore, in respect of the proof machined forging which are used as part of mill house are entitled for the benefit of Modvat credit as capital goods, Keeping in view the facts and circumstances of the case penalty of Rs. 5000/- is set aside.

The appeal is disposed of as indicated above.